

EXHIBIT 51

1 ROB BONTA
Attorney General of California
2 P. PATTY LI
Supervising Deputy Attorney General
3 ANNA FERRARI
Deputy Attorney General
4 State Bar No. 261579
JOHN D. ECHEVERRIA
5 Deputy Attorney General
State Bar No. 268843
6 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
7 Telephone: (415) 510-3479
Fax: (415) 703-1234
8 E-mail: John.Echeverria@doj.ca.gov
Attorneys for Defendant Rob Bonta,
9 *in his official capacity*¹

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
20 **WILLIS; and CALIFORNIA RIFLE**
21 **& PISTOL ASSOCIATION,**
22 **INCORPORATED,**

23 Plaintiffs,

24 v.

25 **ROB BONTA, in his official capacity**
26 **as Attorney General of the State of**
27 **California; and DOES 1-10,**

28 Defendants.

8:17-cv-00746-JLS-JDE

**CORRECTED SUPPLEMENTAL
SUR-REBUTTAL EXPERT
REPORT AND DECLARATION
OF RYAN BUSSE**

Courtroom: 8A
Judge: The Honorable Josephine
L. Staton

Action Filed: April 24, 2017

¹ Rob Bonta has succeeded former Attorney General Xavier Becerra as the Attorney General of the State of California. Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Bonta, in his official capacity, is substituted as the defendant in this case.

**CORRECTED SUPPLEMENTAL SUR-REBUTTAL EXPERT REPORT
AND DECLARATION OF RYAN BUSSE**

I, Ryan Busse, declare under penalty of perjury that the following is true and correct:

1. I am a former senior executive in the firearms industry and the author of *Gunfight: My Battle Against the Industry that Radicalized America* (New York: PublicAffairs, 2021). I previously submitted a supplemental expert report and declaration in the above-captioned case dated January 6, 2023. My professional qualifications are set forth in that supplemental expert report and declaration.²

2. I have been asked by the Office of the Attorney General of the California Department of Justice to prepare a supplemental sur-rebuttal expert report and declaration responding to the February 3, 2023 Rebuttal Report of Mark Hanish, and in further support of the opinions expressed in my January 6 supplemental expert report and declaration. This supplemental sur-rebuttal expert report and declaration is based on my own personal knowledge and experience, and, if I am called as a witness, I could and would testify competently to the truth of the matters discussed in it.

**A. MAGAZINES AND CAPACITY: MR. HANISH'S INACCURATE
CLAIMS REGARDING THE DIFFICULTY OF OBTAINING NON-LCM³
MAGAZINES, AND WHETHER OR NOT LCMS ARE NECESSARY FOR
NORMAL FUNCTION OF FIREARMS AND SELF-DEFENSE.**

3. Detachable magazines may hold as many as 100 or more ammunition rounds but will also function with a single round. It is my experience that magazines which limit capacity to as few as 5 rounds are commonly available and

² Since that supplemental expert report and declaration, I have submitted expert declarations in *Harrel v. Raoul*, Case No. 23-141-SPM in the United States District Court for the Southern District of Illinois and *National Association for Gun Rights v. Lopez*, Case No. 1:22cv404 in the United States District Court for the District of Hawaii.

³ "LCM" refers to large-capacity magazines, which are ammunition magazines capable of holding more than 10 rounds of ammunition.

1 are often legally mandated for hunting in many states. It is my experience that even
2 if large capacity magazines are available or sold with firearms today, all firearms
3 companies offer lower capacity options (often 10 round versions to comply with
4 laws in various states such as California).

5 4. Despite the recent proliferation of LCMs, it is important to note that
6 there is no known firearm that requires an LCM to function as designed. In other
7 words, popularity does not equal necessity. All firearms that can accept an LCM
8 can also accept a magazine that holds fewer rounds and still function precisely as
9 intended. This is true even of AR- and AK-platform rifles. Although many of these
10 rifles are sold with a 30 round magazine, the manufacturers all offer the optional
11 purchase of 10 round or even lower-capacity magazines.

12 5. The gas tank in a car provides a good analogy here. Like a firearm
13 magazine, the gas tank is a holding device for what is in essence the “fuel.” For a
14 car with a 20 gallon tank, the car will function as designed on the first 10 gallons
15 just as it will the last 10 gallons. No one would argue that the car cannot function if
16 the tank is only half full or that the car will only run as designed with a full 20
17 gallon tank. The gas tank could even be shrunk or reduced to a maximum of 10
18 gallons and the car would certainly function as designed. The same is true of
19 firearms and magazine capacity, and there is no known instance of any firearms
20 manufacturer stating that their firearm is unreliable or will not function similarly
21 without an LCM.

22 6. There is no difficulty in obtaining lower-capacity or standard-capacity
23 magazines for virtually any firearm today. These are often sold by manufacturers,
24 retailers and online sellers as normal accessories and may be referred to as
25 “compliant magazines.” I am not aware of a single case where those magazines
26 have been advertised as inadequate or ineffective, and I am not aware of any other
27 expert or industry advertisement that claims these magazines render a gun defective
28 or unable to function in self-defense situations.

1 7. This is a marketing description of one magazine section from noted
2 industry reseller Righttobear.com, which sells dozens of options for hundreds of
3 guns and is typical of others in the firearms industry: “Residents of a number of
4 states are forbidden by law to have large-capacity ammunition magazines that hold
5 more than 10 rounds, in some cases even 7 rounds. We carry a full inventory of
6 magazines designed to meet some state restrictions. Each of the AR 10-round
7 magazines we sell meet or exceed our high standards for any product we sell. All
8 are based on proven designs, with the simple restriction of only holding 10 rounds.
9 If you are in the market for a 10-round AR magazine, check out the selection we
10 offer here. You will find magazines from several manufacturers, designed to fit a
11 number of ammo calibers. These AR 10-rd magazines allow you to customize your
12 rifle while helping to meet some state restrictions. You can get 10-round mags that
13 won't interfere with the other accessories on your rifle. Find the right 10-round AR
14 mag for your needs, and get it on order today!”⁴

15 8. There are multiple respected industry reviews of compliant (non-
16 LCM) magazines that not only highlight their known reliability but also point out
17 important functional advantages of smaller magazines. This is one such review
18 section of various magazines by the popular PewPew Tactical website, in which
19 one of the most popular 10 round AR-15 magazines is discussed: “The 10-Round
20 PMAG M3 is an option that won’t let you down! But the dedicated lower-capacity
21 magazines are also nice because they are shorter—this makes prone or bench
22 shooting easier for most people.”⁵

23 9. There are many pistols (like the 1911, which was the accepted
24 defensive sidearm of the U.S. Military for decades and is still one of the most
25

26 ⁴ Offerings of compliant magazines from reseller;
27 <https://www.righttobear.com/ar-10-round-magazines/> (last visited Feb. 10, 2023).

28 ⁵ Review of various magazines from PewPew Tactical:
<https://www.pewpewtactical.com/best-magazines-ar-15/> (last viewed Feb. 10
2023).

1 widely owned self-defense guns in the United States) that are sold with magazines
2 of eight rounds or less. Other widely popular guns such as the Sig P938 and P238
3 are also designed to function with seven or eight round magazines and these guns
4 have been widely acclaimed by dozens of notable firearms industry experts as
5 among the most effective concealed carry/self-defense firearms on the market.⁶
6 While larger 10-plus round magazines exist for these pistols, a smaller magazine
7 (standard seven or eight round) is considered preferable by almost all consumers
8 because the physical size/profile of the shorter magazine is easier to carry, shoot
9 and conceal.

10 10. Still today, guns such as the 1911 and Sig938/238 are built to function
11 with sub-10 round magazines. With regards to the 1911 design, it is so respected
12 that direct copies are currently reproduced by many gun companies (Smith and
13 Wesson, Ruger, Kimber, Springfield, Rock Island, Dan Wesson, and many others)
14 and they are sold in high volumes by most retailers in the United States. These guns
15 are still considered extremely effective self-defense firearms by many of the leading
16 firearms trainers in the country and are widely labeled as an “expert’s gun.”

17 11. While there is a competitive market trend towards increased handgun
18 capacity, there are also many more recently introduced handgun models that utilize
19 or offer 10 round magazines and are considered excellent self-defense options by
20 notable industry experts and journalists. In other words, the industry itself openly
21 advertises that 10 rounds is more than enough for effective self-defense. The
22 following is a review for a 10 round version of one of the best-selling handguns in
23 the industry offered by notable industry website TheArmoryLife.com: “10 rounds
24 of 9mm in a micro-compact is still a formidable defense. Springfield Armory
25 recently announced the addition of a 10-round version of the Hellcat pistol for
26

27 ⁶ USA Carry review of Sig 938 9mm handgun:
28 <https://www.usacarry.com/sig-sauer-p938-subcompact-9mm-review/> (last visited
Jan. 10, 2023).

1 shooters in states that require restricted magazine capacities. The new 10-round
2 variant of the Hellcat offers a great self-defense option for owners that live in areas
3 with these restrictions.”⁷

4 12. Revolvers, which have 5 or 6 round capacities, are also considered to
5 be extremely effective self-defense guns. Respected industry experts have long
6 openly agreed on this point. Many of these experts often point out that self-defense
7 situations almost always involve very few shots fired. The following is an excerpt
8 from a 2015 NRA American Rifleman article on the desirability of revolvers for
9 self-defense in which the issue of capacity in defensive situations is discussed: “The
10 importance of this difference in ammunition capacity is debatable. Some self-
11 defense gurus support the idea that more is better. Others point out that most
12 civilian situations happen so quickly, with only a few rounds fired (an average of
13 three), that handgun capacity is a moot point.”⁸

14 13. Generally speaking, pump action and semi-automatic shotguns utilize
15 a tubular magazine. However there are now dozens of “tactical” shotgun designs⁹
16 that accept detachable magazines similar to AR-15 designs, and some are large
17 capacity. There are also some shotguns that are generally designed to be similar to
18 AR-15s but chambered in a shotgun cartridge (usually 12 gauge). With regards to
19 these shotguns, none of the features set forth in § 30515(a) are necessary for
20 effective self-defense. One of the most effective self-defense guns of all time (the
21 Remington 870 pump shotgun) has always been sold standard with no tactical
22 features or high capacity magazine and has always been considered a top self-
23 defense choice.

24 ⁷ Review of Springfield Hellcat 10 round version:
25 <https://www.thearmorylife.com/going-10-rounds-with-the-springfield-hellcat/> (last
viewed Feb. 8, 2023).

26 ⁸ NRA American Rifleman article on revolvers and capacity in self-defense:
27 <https://www.americanrifleman.org/content/why-choose-a-wheelgun/> (last viewed
Feb. 1, 2023)

28 ⁹Leading retailer tactical shotgun options: <https://www.impactguns.com/ar-15-shotguns/> (last visited Jan. 29, 2023).

14. When reviewing the Remington 870 as a self-defense firearm, the highly respected and notable industry publication Gun Digest said this of the Model 870 Home Defense Model: “As plain and simple as it gets when it comes to Remington 870 tactical shotguns, the Home Defense is a knock-out bargain. There are cheaper 870s available, but none set up to excel like this one. In particular, its 6-round tubular magazine—two more than standard 870 models—gives you more than enough firepower to handle anything outside a Hunnish siege.”¹⁰ This is a photograph from that article of the gun described. (Note that the firearms industry draws the distinction between self-defense situations and a “Hunnish siege.”) It is important to note that according to Gun Digest, the gun which “excels” at self-defense does not include any of the assault weapon features described in my earlier declaration.

870 Home Defense



15. In addition, the industry treats magazines as accessories, not as firearms. Evidence of this is found in the sales practices of many retailers like Palmetto State Armory (one of the largest firearms retailers in the United States) which clearly list magazines in the “general accessory” section.¹¹

¹⁰ Gun Digest Review of Self-Defense Shotguns: <https://gundigest.com/gun-reviews/shotguns/top-four-remington-870-tactical-shotgun-options> (last viewed Feb. 18, 2023).

¹¹ General accessories offered by Palmetto State Armory: <https://palmettostatearmory.com/accessories.html> (last viewed Feb. 1, 2023).

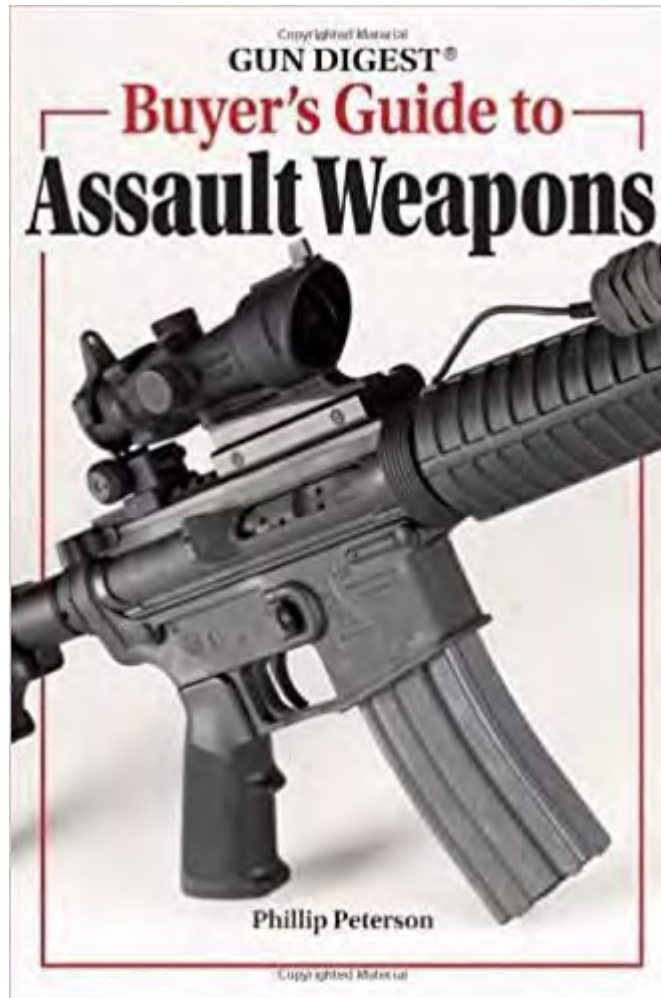
1 16. The degree to which a magazine is viewed as an accessory by firearms
2 retailers is reinforced by the fact that when manufacturers add additional magazines
3 to the firearm at the time of sale as an incentive to encourage consumers to
4 purchase the gun, the practice often upsets the retailers who view this as taking
5 away an accessory sale they could have made. Below is a recent promotion from a
6 firearms manufacturer which both advertises magazines as sales incentives and
7 offers 10-round magazine options:



17 **B. HISTORY AND MARKETING OF AR-15s AND SIMILAR**
18 **ASSAULT WEAPONS: MR. HANISH'S INACCURATE ASSERTIONS**
19 **REGARDING SALES AND MARKETING OF AR-15s, AK-47s AND**
 ASSAULT WEAPONS, AND THEIR NECESSITY IN SELF-DEFENSE.

20 17. All AR-15 firearms are derivatives of the Armalite Rifle (AR) model
21 15, which was originally designed for the United States Military in the late 1950s.
22 The AR-15 was specifically designed to satisfy clearly stated military requirements
23 for an offensive or “assault” rifle. The AR-15 incorporated features that satisfied
24 these requirements, which included: being lightweight, easily portable, accurate,
25 high-capacity-capable, low recoil, and fast-firing. The AR-15 was therefore adopted
26 by the U.S. military in the early 1960s. The firearms industry openly referred to
27 these and all similar weapons as “assault weapons” and “assault rifles” as late as
28 2008, as evidenced by this 2008 issue of Gun Digest, which is widely respected and

1 commonly accepted in the industry as a prominent authority and advertising
2 publication:¹²



19 18. The small size of the .223 or 5.56 cartridge was particularly important
20 for the military selection because it allowed soldiers to greatly increase capacity in
21 their rifles and magazines. In other words, it is the large capacity that the military
22 saw as most important for offensive military operations. The bullets from these
23 smaller and faster cartridges are very deadly at short and medium ranges and the
24 bullet speed they produce can inflict severe damage with minimal recoil impulse
25 back to the shooter. These cartridge characteristics were selected because they

26
27
28

¹² One of many listings for archived issues of Gun Digest for sale from various resellers: <https://www.amazon.com/Digest-Book-Assault-Weapons-Fifth/dp/087341778X> (last visited Jan. 30, 2023).

1 result in a rifle that can be high-capacity, accept loaded magazines which are easy
2 to transport, and also be very easy to fire repeatedly while staying on target. The
3 reasoning for the military decision on this chambering is summed up in this article
4 from *Business Insider*: “The smaller rounds weighed less, allowing troops to carry
5 more ammunition into the fight. They also created less recoil, making it easier to
6 level the weapon back onto the target between rounds and making automatic fire
7 easier to manage. Tests showed that troops equipped with smaller 5.56 mm rounds
8 could engage targets more efficiently and effectively than those firing larger,
9 heavier bullets.”¹³ This is why AR-15 and AK-47 platform weapons remain the
10 assault weapon of choice for military operations in short and medium range
11 scenarios where repeated, high volume and accurate offensive shooting is desired.

12 19. These same general attributes, especially the ability to accept LCMs,
13 are those which appear to be desired by many recent mass shooters in the United
14 States. AR-platform rifles were used in the recent shootings in Buffalo, New York,
15 Highland Park, Illinois and Uvalde, Texas where, according to law enforcement
16 officials quoted in a CBS news article, the shooter used an assault weapon and
17 LCMs to easily transport nearly 1700 rounds of ammunition to Robb Elementary
18 school. “A law enforcement source told CBS News that the amount of ammunition
19 that the suspect brought with him is more than what an average U.S. soldier would
20 go into basic combat with, apparently planning on a massive gun battle.”¹⁴

21 20. Military versions of the AR-15 are generally capable of “fully
22 automatic” and “burst” rates of fire. These automatic firing modes, which produce
23 multiple shots with one trigger pull, are generally used not to target and kill
24

25 ¹³ Story on background of AR-15 and chambering history
26 <https://www.businessinsider.com/why-did-us-military-switch-from-762mm-round-to-556mm-2019-9> (last visited on Jan. 27, 2023).

27 ¹⁴ CBS article on Uvalde Shooting: <https://www.cbsnews.com/news/uvalde-shooting-more-ammunition-than-us-soldiers-carry-rounds-into-combat/> (last
28 viewed Feb. 1, 2023).

1 individual combatants but rather to suppress enemy fire. An article from SOFREP,
2 (a respected digital outlet written and maintained by “former American and US
3 Coalition Military Veterans”) reinforces this truth with this statement: “In combat,
4 automatic weapons are more commonly employed as a means of suppressing
5 enemy movements than they are in actually killing the enemy.”¹⁵ Therefore, “semi-
6 automatic” mode is the mode that is most often deployed in battle to efficiently
7 target and kill because it allows targeting of specific human targets with repeated
8 accurate shots rather than inaccurate, indiscriminate “spray.” It is my experience
9 that respected Special Forces trainers therefore teach that “semi-auto” is the
10 preferred and most lethal setting in most wartime scenarios.

11 21. United States civilian-legal versions of the AR-15 (and other assault
12 weapons sold into the U.S. commercial market) are semi-automatic firearms.

13 22. The original patent for the gas operating system central to the AR-15
14 being rapidly fired with minimal recoil expired in 1977,¹⁶ which subsequently
15 allowed the engineering prints for the AR-15 to be publicly available to all firearms
16 companies. From that point forward, there could have been a large-scale,
17 immediate, and legal proliferation of direct copies of these rifles and other high
18 capacity semi-automatic guns into the United States commercial market. But that
19 did not happen, at least not until nearly two decades later. In fact, when I first
20 started my work in the gun industry in the 1990s, assault weapons, including AR-
21 15s, were not commonly sold or marketed, and within the gun industry the
22 acceptance or promotion of this product category was thought to be irresponsible
23 and potentially dangerous.

24
25
26 ¹⁵ Article on full auto or semiautomatic from SOFREP
27 [https://sofrep.com/news/how-are-automatic-weapons-actually-used-by-militaries-](https://sofrep.com/news/how-are-automatic-weapons-actually-used-by-militaries-in-combat/)
28 [in-combat/](https://sofrep.com/news/how-are-automatic-weapons-actually-used-by-militaries-in-combat/) (last visited Jan 30 2023)

¹⁶ Gas Operated Bolt and Carrier System, U.S. Patent No. 2,951,424
(accessible at <https://patents.google.com/patent/US2951424A/en>).

23. This former self-imposed industry “regulation” was first publicly voiced by the revered founder of Ruger, which is now one of the largest companies in the industry. During a 1992 interview with Tom Brokaw, William B. Ruger stated what was then common industry consensus: “No honest man needs more than 10 rounds in any gun.” Ruger went on to state: “I never meant for simple civilians to have my 20 or 30 round magazines.”¹⁷ This was widely held industry opinion and evidence of its prevalence is born out in the commercial sales total of AR-15s and other similar guns. During the period between 1964 and 1994, first for Colt, and then also for all companies who produced the guns after Colt’s patent sunset, commercial AR-15 sales averaged fewer than 27,000 units per year for a total of about 787,000 units in the 30-year period 1964-1994.¹⁸ During the 10-year period of the federal assault weapons ban (1994-2004), AR-15s were legal to produce and sell as long as they did not incorporate and combine additional features as enumerated in that legislation. Even after that federal legislation expired, the gun industry did not immediately begin producing or selling these guns in large numbers. That is because there was a continued general agreement in the industry that these guns, which were very clearly designed for military-style, offensive (i.e., attacking) use, and related gun paraphernalia—including virtually all LCMs, which were generally also considered to be for military-style, offensive use—would not be displayed at trade shows or used at industry-sponsored shooting events.

24. This voluntary prohibition also extended to the largest sporting goods retailers in the country, almost none of which would sell or display assault weapons

¹⁷ Article on Bill Ruger’s position on LCMs; <https://www.nhregister.com/connecticut/article/Magazine-limits-were-first-proposed-by-11435654.php> (last viewed Feb. 1, 2023).

¹⁸ Estimating AR-15 Production, 1964-2017 (Nov. 9, 2019), http://www.alternatewars.com/Politics/Firearms/Count/AR15_Production.htm (last visited Jan. 12, 2023) (compiling data from the Bureau of Alcohol Tobacco, Firearms & Explosives’ *Annual Firearms Manufacturing and Export Reports*, among other sources).

1 or AR-15s or AK-47s in their stores until the mid-2000s. Individuals in the shooting
2 industry were asked not to bring such guns to industry events or promote them
3 publicly. The National Shooting Sports Foundation (NSSF), which administers the
4 main industry trade show (SHOT show), also severely restricted the display of
5 military and tactical gear or weapons in its own trade show. This remained true as
6 late as 2006. It was not until very recently that the gun industry began to push AR-
7 15s and other assault weapons, leading to their increased proliferation today. The
8 following table of data compiled by the NSSF, which brands itself as “The Firearm
9 Industry Trade Association,” clearly illustrates that sales of such guns (so-called
10 “modern sporting rifles,” AR-15s and AK-47s) has dramatically increased since
11 1990, despite the fact that no federal, and few state, restrictions on such guns
12 existed in 1990. (74,000 units in 1990 versus 2,798,000 in 2020):¹⁹

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

¹⁹ https://www.nssf.org/wp-content/uploads/2022/07/EstMSR1990_2020.pdf
(last visited Jan. 12, 2023).

Estimated Modern Sporting Rifles in the United States 1990 – 2020

Year	US Production less exports of MSR/AR platform	US Import less exports of MSR/AR, AK platform	ANNUAL TOTAL
1990	43,000	31,000	74,000
1991	46,000	69,000	115,000
1992	33,000	72,000	105,000
1993	62,000	226,000	288,000
1994	103,000	171,000	274,000
1995	54,000	77,000	131,000
1996	27,000	43,000	70,000
1997	44,000	81,000	125,000
1998	70,000	75,000	145,000
1999	113,000	119,000	232,000
2000	86,000	130,000	216,000
2001	60,000	119,000	179,000
2002	97,000	145,000	242,000
2003	118,000	262,000	380,000
2004	107,000	207,000	314,000
2005	141,000	170,000	311,000
2006	196,000	202,000	398,000
2007	269,000	229,000	498,000
2008	444,000	189,000	633,000
2009	692,000	314,000	1,006,000
2010	444,000	140,000	584,000
2011	653,000	163,000	816,000
2012	1,308,000	322,000	1,630,000
2013	1,882,000	393,000	2,275,000
2014	950,000	237,000	1,187,000
2015	1,360,000	245,000	1,605,000
2016	2,217,000	230,000	2,447,000
2017	1,406,000	158,000	1,564,000
2018	1,731,000	225,000	1,956,000
2019	1,679,000	169,000	1,848,000
2020	2,466,000	332,000	2,798,000
TOTALS	18,901,000	5,545,000	24,446,000

Source: ATF AFMER, US ITC, Industry estimates

25. It is my experience that this proliferation is the result of a direct and purposeful industry marketing effort. In 2009 as part of this effort, the firearms industry (encouraged by the NSSF), facilitated a public re-branding of assault weapons in an effort to make them more socially acceptable. As such, the NSSF broadly encouraged an industry-wide effort to rename such guns “Modern Sporting Rifles” or MSRs. Even though the guns themselves were steadily “improved” in many functional areas that impact lethality of a military assault weapon, industry members, including me, were then strongly encouraged to stop using the term

1 “assault rifle” or even “tactical weapon” because those terms were thought a too-
2 transparent label that referenced offensive military assaults which would therefore
3 harm the public perception of such guns and decrease the sales of companies that
4 build them. Despite the fact that well into the 2000s, almost everyone in the
5 industry used the terms assault weapon and assault rifle, NSSF purposefully sought
6 to reframe the origin of this terminology and distance the firearms industry from it
7 with statements that are still on the NSSF marketing material and website yet today:
8 “If someone calls an AR-15 or other semi-automatic rifle an “assault weapon,” he
9 or she either supports banning these firearms or does not understand their function
10 and sporting use, or both. Please correct them. ‘Assault weapon’ is a political term
11 created by California anti-gun legislators to ban some semi-automatic rifles there in
12 the 1980s.”²⁰

13 26. During the late 2000s and continuing through today, there has been a
14 rapid increase in the number of companies that manufacture and market their own
15 versions of AR-15s and other similar assault weapons. This has resulted in a
16 transformation of the marketplace from only a few AR-15 manufacturers in 2000,
17 to several hundred AR-15/assault weapon companies today. The list of AR-15
18 manufacturers now includes small, medium, and the largest firearms companies in
19 the United States, all of whom are striving to obtain market share with derivatives
20 of what is effectively the same product. This reality has created a highly
21 competitive market resulting in thousands of “continuous improvements” in the
22 AR-15-style firearms sold to the general public as a way to encourage consumers to
23 buy one rifle over another. Over time, these improvements have generally been
24 incorporated on most rifles across the marketplace and therefore result in firearms
25 that are almost universally more accurate, more portable, and more specifically
26 tailored to produce lethal outcomes.

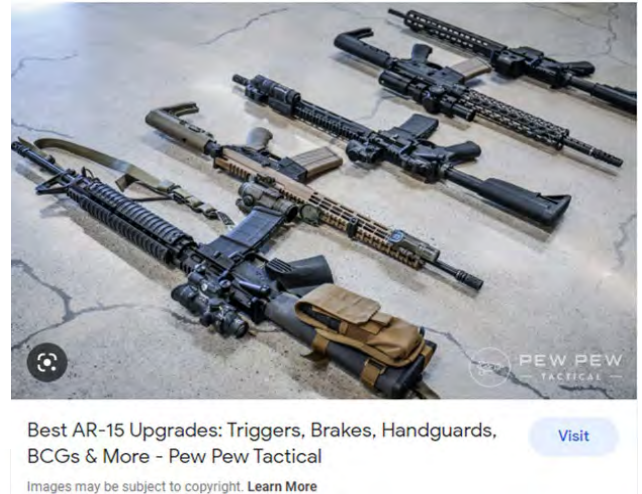
27 ²⁰ NSSF MSR marketing webpage <https://www.nssf.org/msr/> (last visited
28 Jan. 20, 2023).

1 27. Mirroring the trend in AR-15s, there has also been a notable increase
2 in the prevalence in the civilian marketplace of handguns designed to accept LCMs.
3 While it is generally true that larger capacity handguns have existed in the industry
4 for several decades, it is also true that until the mid-2000s there was little focus
5 upon them as a central source for industry product development and growth. The
6 shift to focus on these more tactical or offensive, higher capacity handguns has
7 resulted in a competitive trend that is accelerating. Where there were once relatively
8 few such guns or marketing efforts, now most of the largest firearms makers in the
9 United States offer several versions of handguns that can accept LCMs and each
10 year the increasing capacity of compatible magazines is used as a central
11 competitive marketing tool. Even Ruger, the company founded by Bill Ruger who
12 plainly stated “honest men did not need more than 10 rounds in any gun,” now touts
13 the 12+1 round capacity of its new Max9 pistol.²¹

14 28. The increase in the AR-15 market has also facilitated an increase in
15 accessory availability for the AR-15 and similar firearms (commonly referred to as
16 “furniture”). In addition to other accessories like flash suppressors and pistol grips
17 that are not necessary to use a firearm effectively for self-defense or other sporting
18 purposes, today most AR-15s and similar firearms incorporate features designed to
19 accept one or more of dozens of newer accessories as well, all of which are
20 designed and marketed to increase the effectiveness of the rifle in live-fire
21 situations. The list of accessories includes hundreds of magazine options, highly-
22 effective electronic optics, more sensitive triggers, devices such as bump stocks and
23 modified trigger systems which convert guns to near-fully-automatic rates of fire,
24 forward and pistol grip options, tactical lights, laser-pointing devices, LCMs, and
25 many others. Almost none of these accessories were available to the United States
26 military at the time of the rifle’s adoption in the early 1960s, and in many cases

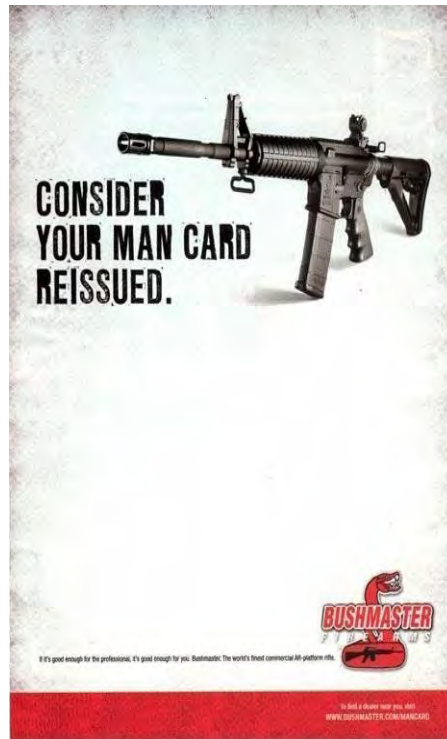
27 ²¹ Ruger Max pistol: <https://www.ruger.com/products/max-9/models.html>
28 (last viewed Feb. 1, 2023).

1 U.S. civilians can now outfit rifles in a manner more lethal than the rifles carried by
2 the military—and in ways unnecessary for self-defense. There are now hundreds of
3 companies and retailers who encourage customers to make their rifles more
4 effective by accessorizing. The following are examples of industry marketing
5 efforts which illustrate this trend.²²



15 29. The competitive AR-15/assault weapon marketplace has also resulted
16 in manufacturers seeking to create new customers through professional, targeted
17 marketing campaigns. Most of these campaigns feature LCMs and overtly target
18 young American males, such as this example from 2010-2012:

22 AR-15 accessory article examples: <https://www.tactical-life.com/gear/top-10-black-guns-ar-accessories/> (last visited Jan. 10, 2023), and
<https://www.pewpewtactical.com/best-ar-15-furniture-accessories/> (last visited Jan. 10, 2023).



The gun advertised in this campaign (Bushmaster XM15 rifle) has been used by young men in notable mass shootings, including those in Sandy Hook, Connecticut and Buffalo, New York.²³

30. After campaigns such as the Bushmaster advertisement above were recognized as successful within the industry, other manufacturers, which had up until that point primarily supplied military units and police agencies, began to more aggressively target the U.S. civilian market. It is my experience that the aim of such efforts was generally to target young men with advertising that often involved equating the necessity of owning military weapons with proving masculinity.

²³ Bushmaster XM15 Mancard advertising article: <https://www.ammoland.com/2010/05/bushmaster-man-card/#axzz7q0HQao58> (last visited Jan. 10, 2023).

1 31. Smith and Wesson's AR-15 variant is now widely reported to be the
2 best-selling AR-15 in the United States. These rifles have been used in notable
3 mass shootings, including in the Parkland, Florida school shooting and in the
4 Highland Park, Illinois July 4th parade shooting. Smith and Wesson's primary
5 customers for this rifle are U.S. civilians who are generally not trained in military
6 or police tactics nor monitored by military safety protocols, but the company's
7 chosen name for this rifle—the M&P15, which means "Military and Police AR-
8 15"—suggests buyers will be equipped with the same rifles as trained military and
9 police units.²⁴

10 32. Other prevalent AR-15 marketing encourages potential customers to
11 buy and deploy the same weaponry and LCMs as elite Special Forces units of the
12 U.S. military. It is my experience that most of these customers are young men. In
13 other words, marketing within the firearms industry admits to, and capitalizes on,
14 the AR-15-style weapons and LCMs being military weaponry sold to young men,
15 as in this example:



27 ²⁴ <https://www.smith-wesson.com/product/mp-15-sport-ii> (last visited Jan.
28 10, 2023).

1 A version of the Daniel Defense Rifle in this advertisement was featured in the
2 Modern Warfare²⁵ video game and used in the Uvalde, Texas shooting.²⁶

3 33. An increasing number of smaller AR-15 manufacturers often seek to
4 grow their market by advertising in ways that depict young men with LCMs in AR-
5 15s inciting or engaging in armed urban warfare, such as in this recent example
6 from AR-15 maker Spike's Tactical, which encourages men to deploy their AR-15s
7 (each one equipped with an LCM) in armed conflict across the United States:²⁷



23 ²⁵ One of many YouTube captures of the DDM4 Daniel Defense rifle in
24 Modern Warfare: https://www.youtube.com/watch?v=KM_sdzKGKv0 (last visited
Jan. 30, 2023).

25 ²⁶ Michael Daly, *Uvalde Shooter's Gunmaker Hypes 'Revolutionary' New*
26 *Killing Machine*, [https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-](https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine)
[gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine](https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine) (last visited
Jan. 10, 2023) (showing Daniel Defense advertisement).

27 ²⁷ Spikes Tactical Antifa advertisement:
28 [https://www.spiketactical.com/press/left-wing-media-outlets-lose-minds-over-gun-](https://www.spiketactical.com/press/left-wing-media-outlets-lose-minds-over-gun-ad-disregard-basic-rules-of-journalism/)
[ad-disregard-basic-rules-of-journalism/](https://www.spiketactical.com/press/left-wing-media-outlets-lose-minds-over-gun-ad-disregard-basic-rules-of-journalism/) (last visited Jan. 10, 2023).

1 34. Other AR-15 manufacturers now often seek to spur sales by depicting
2 men deploying their personal AR-15s and LCMs in self-appointed armed vigilante
3 actions, such as this advertising image supplied by the AR-15 maker Patriot
4 Ordnance Factory:²⁸

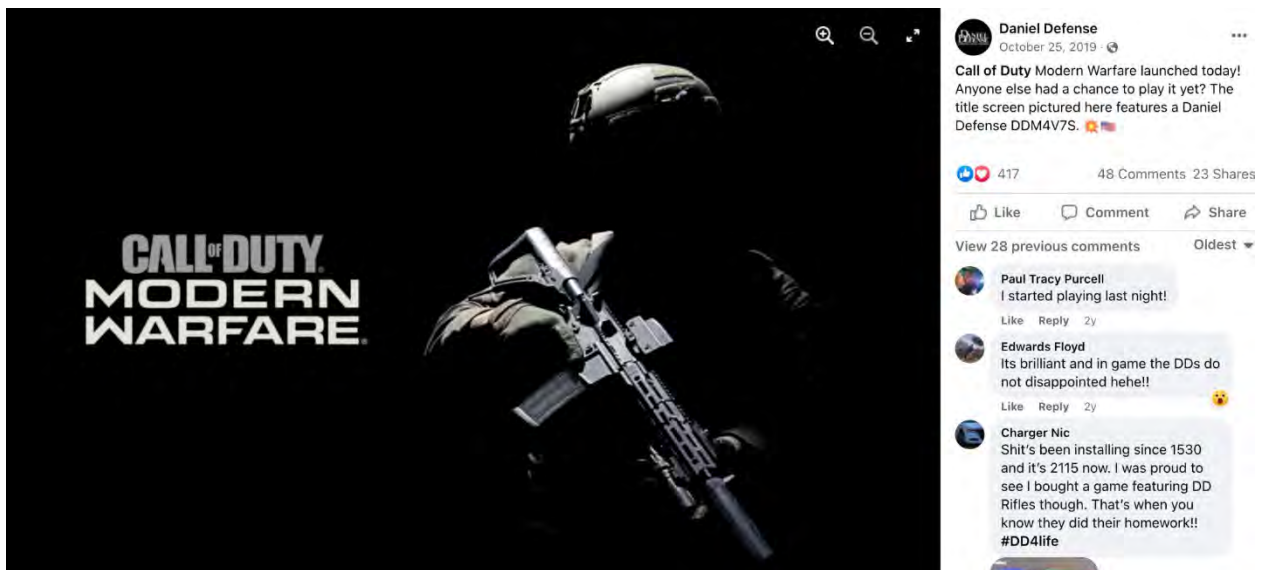


16 35. Many firearms companies now seek out, and celebrate placement of
17 firearms with large capacity magazines in popular video games that are commonly
18 played by children. The following is a notable example of an AR-15 company
19 celebrating the placement of their gun into the Call of Duty Modern Warfare video
20 game:²⁹

21
22
23
24
25
26

²⁸ <https://pof-usa.com/wallpapers/> (last visited Jan. 10, 2023).

27 ²⁹ Article on firearms marketing:
28 <https://www.theatlantic.com/ideas/archive/2022/07/firearms-industry-marketing-mass-shooter/670621/> (last viewed Feb. 1, 2023).



36. Some prominent AR-15 companies design and market their rifle models with specific suggested uses that bear obvious similarities to mass shooting events that have happened in U.S. urban environments such as the Pulse Nightclub, Las Vegas concert shooting, and the El Paso Walmart shooting. This is one relevant example from AR-15 maker Wilson Combat:³⁰



37. There are many AR-15 companies that combine the trends of continuous improvement, accessorization, and modern digital marketing to encourage potential customers to personalize and optimize their rifles and magazine selections through an online ordering process. Below is one such example.³¹ The

³⁰ <https://www.wilsoncombat.com/ar-calibers/224-valkyrie/super-sniper/> (last visited Jan. 10, 2023).

³¹ <https://rooftoparms.com/> (last visited Jan. 10, 2023).

1 official corporate name of this manufacturer further suggests the preferred use of
2 their AR-15s is from “rooftops,” which is precisely how the shooter during the
3 Highland Park, Illinois July 4th parade deployed his AR-15 rifle and LCMs.



16 38. In my experience, many individuals and companies in the firearms
17 industry who once imposed reasonable self-restraint regarding sales and marketing
18 practices now operate under the belief that the Protection in Lawful Commerce in
19 Arms Act (PLCAA),³² which became law in 2005, provides a liability shield for
20 product development, sales and marketing efforts. It is also my experience that the
21 AR-15/assault weapon marketing, as detailed in the examples above, has increased
22 in frequency and become much more explicit since PLCAA enactment.

23 39. It is my opinion that increased sales and ownership stem from this
24 marketing, as opposed to any legitimate increased necessity for, or efficacy of,
25 assault weapons for self-defense.

26
27
28 ³² 15 U.S.C. §§ 7901–7903.

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed on February 27, 2023 at Kalispell, Montana.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A handwritten signature in black ink, appearing to read 'Ryan Busse', is written over a horizontal line.

Ryan Busse